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DISTRICT COURT OF GUAM
TERRITORY OF GUAM

DEBORAH K. WILSON,

Plaintiff,

vs.

Civil Case No. 07-00018

MICHAEL ASTRUE, Individually and in his
capacity as Commissioner of the United States
Social Security Administration,

Defendant.

ORDER

This matter comes before the court pursuant to an Application to Proceed Without Prepayment of Fees filed by Plaintiff Deborah K. Wilson. She requests in forma pauperis status in order to proceed with her appeal to the Ninth Circuit Court of Appeals.

BACKGROUND

On September 24, 2007, this court issued an order that dismissed with prejudice Plaintiff's claims brought in a *Bivens* action, and dismissed without prejudice her remaining claims. (Docket No. 30). In light of the dismissal, the court did not address Plaintiff's in forma pauperis application or her motions. The court then denied her motion for relief from judgment brought pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. (Docket No. 36).

Plaintiff then filed a Notice of Appeal and an application seeking in forma pauperis status on November 21, 2007. (Docket Nos. 44 and 45). Despite filing this application, Plaintiff paid the filing fee for the appeal on December 14, 2007. (Docket No. 50).

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1 ANALYSIS

2 The court “may authorize the commencement . . . of any . . . appeal . . . without prepayment
3 of fees” upon filing of a statement “that the person is unable to pay such fees.” 28 U.S.C. §
4 1915(a)(1). Plaintiff’s Notice of Appeal was accompanied by an application to proceed in forma
5 pauperis and an affidavit indicating that she has received three Social Security checks for \$649 and
6 another check for \$750. (Docket Nos. 44 and 45). The court recognizes that a party is not required
7 to show that he or she is destitute in order to proceed in forma pauperis. *See Adkins v. E.I. DuPont*
8 *de Nemours & Co.*, 335 U.S. 331, 339 (1948) (“We cannot agree with the court below that one
9 must be absolutely destitute to enjoy the benefit of the statute [allowing in forma pauperis
10 status].”). The court is also cognizant that Plaintiff apparently does not receive food stamps or
11 housing benefits. (Docket No. 44).

12 Nonetheless, Plaintiff here paid the appellate filing fee. (Docket No. 50). In doing so,
13 Plaintiff mooted her Application to Proceed Without Prepayment of Fees. *See Sorensen v. Uttecht*,
14 No. C06-5482 RBL/KLS, 2006 WL 3232019 (W.D. Wash. Nov. 6, 2006) (“Because he has paid
15 the filing fee, Petitioner’s application to proceed *in forma pauperis* is moot.”).

16 The Application to Proceed Without Prepayment of Fees is hereby **DENIED**.

17 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Jan 17, 2008